



General Services Administration
Office of General Counsel
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 14, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Subject: Interconnection and Resale Obligations
Pertaining to Commercial Mobile Radio
Services, CC Docket No. 94-54.

Dear Mr. Caton:

Enclosed please find the original and nine copies of the General Services Administration's Comments for filing in the above-referenced proceeding. Copies of this filing have been served on all interested parties.

Sincerely,

Jody B. Burton
Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of

Interconnection and Resale Obligations
Pertaining to
Commercial Mobile Radio Services

CC Docket No. 94-54

DOCKET FILE COPY ORIGINAL

COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

EMILY C. HEWITT
General Counsel

VINCENT L. CRIVELLA
Associate General Counsel
Personal Property Division

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

JODY B. BURTON
Assistant General Counsel
Personal Property Division

Economic Consultant:

Snaveley, King & Associates
1220 L Street, N.W.
Washington, D.C. 20005

GENERAL SERVICES ADMINISTRATION
18th & F Streets, N.W., Room 4002
Washington, D.C. 20405

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BEFORE THE
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Interconnection and Resale Obligations
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CC Docket No. 94-54

COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

I. INTRODUCTION

The General Services Administration ("GSA"), on behalf of the Federal Executive Agencies, submits these Comments in response to the Commission's Second Notice of Proposed Rulemaking ("NPRM"), FCC 95-149, released April 20, 1995. In that Notice, the Commission requested comments and replies on the interconnection and resale obligations for Commercial Mobile Radio Services ("CMRS").

Since the Commission's initial NPRM, released in 1993, the Commission has reached several important conclusions concerning the regulatory treatment of mobile services, particularly with respect to the interconnection and resale of CMRS. First, the Commission has concluded that while CMRS-to-CMRS interconnection is beneficial, it is premature to impose a general interconnection obligation on all CMRS providers

at this time.¹ Second, the Commission has tentatively concluded that resale of all CMRS is in the public interest because it will promote competition in the marketplace.² Third, the Commission has tentatively concluded that a requirement on CMRS firms to provide resale capacity to facilities-based competitors should not continue indefinitely after a firm has become established in the market.³

In these Comments, GSA addresses these conclusions by the Commission.

II. INTERCONNECTION REQUIREMENTS FOR CMRS PROVIDERS SHOULD BE THE SAME AS FOR WIRELINE CARRIERS.

The Commission has concluded that CMRS interconnections will serve the public interest by promoting service to consumers at reasonable prices and also by helping to foster competition.”⁴ However, the Commission stops short of requiring all CMRS providers to interconnect. The Commission concludes concluding that a general obligation on these firms would be premature at this time because the industry has just begun to develop.

The Commission recognizes a wide range of benefits from interconnection of CMRS, including enhanced access to all networks, network redundancy, greater flexibility in communications, and better services for consumers.⁵ The Commission seeks to establish a broad framework for interconnection in order to realize these benefits. However, the Commission suggests that an analysis of market power is a

¹ NPRM, page 16 and page 49.

² *Id.*, page 49.

³ *Id.*

⁴ *Id.*, page 21.

⁵ *Id.*, page 16.

basic requirement to determine whether or not it should impose specific interconnection obligations on a case-by-case basis..⁶

The Commission clearly states that it “would stand ready” to intercede if a given CMRS provider refuses a reasonable request for interconnection. However, the market power and corporate affiliation of the firm providing interconnection would be major considerations in the decision of whether or not to require interconnection.⁷ For example, firms that provide CMRS and are not affiliated with local exchange carriers (“LEC”) may have strong incentives to deny interconnections in order to keep CMRS-to-CMRS traffic interconnected through the landline network. By keeping the traffic on the network, a LEC would continue to collect interconnection charges from both CMRS firms under their existing access charge structures. Therefore, the Commission would view the fact that a LEC controlled a CMRS as very significant in determining whether a denial of interconnection is, on the one hand, a reasonable business decision or, on the other hand, anti-competitive conduct intended to increase the rivals’ costs of doing business.

On August 30, 1994, GSA submitted Comments in the present proceeding to address the Commission’s previous Notice of Proposed Rulemaking, FCC 94-145, released July 1, 1994. In those comments, GSA explained that CMRS-to-CMRS interconnection requirements will foster interconnectivity and accelerate the growth of diverse and competitive mobile services.⁸ As GSA explained, CMRS interconnection requirements will serve the public interest. Interconnection requirements will also provide more opportunities for the Federal Government and business users to obtain telecommunications services through an active competitive bidding process.

⁶ *Id.*

⁷ *Id.*, pages 22-23.

⁸ *Id.*, page 13.

Therefore, GSA urged the Commission to adopt CMRS-to-CMRS interconnection rules that encourage a robust “network of networks” not requiring traffic between radio carriers to be routed through a LEC switch. Other parties have concurred with the positions advanced by GSA in favor of interconnection.

The National Cellular Resellers Association (“NCRA”) argues that interconnection and access to unbundled service elements will dramatically improve the viability of cellular resellers as well as other facilities-based CMRS providers and thereby increase the overall number of CMRS carriers from which customers may choose to obtain service.⁹ TRW Inc. argues that CMRS-to-CMRS interconnection should be required as soon as possible to encourage the development of a nationwide, seamless, wireless communications network that is independent of the LECs and can compete with the existing landline network.¹⁰

GSA recognizes the importance of interconnection requirements for LEC-affiliated firms that may be motivated to impede the activities of potential competitors. However, GSA is convinced that interconnection should be required for all CMRS providers, regardless of market power, size, or corporate affiliation with a local exchange carrier. Indeed, as mobile radio services increase and diversify, they will become a critical component of local exchange access. These services are no longer discretionary. In fact, mobile radio may become the predominant form of access for some communications services.

To enable wireline and CMRS services to compete on an equal standing with each other, the same requirements for interconnection should be applied to each. Broad interconnection requirements are imposed on wireline carriers regardless of their market power. Firms providing CMRS should be held to the same standards.

⁹ *Id.*, page 14.

¹⁰ *Id.*

As one of the nation's largest consumers of telecommunications services, GSA has consistently endorsed policies that promote competition for telecommunications services. Recent economic history, and GSA's own experience, shows that robust competition for telecommunications services provide all consumers with the greatest number of opportunities to meet their telecommunications needs because it expands the number and variety of services from which all users can choose..

To obtain the best telecommunications services at the least cost, the Federal Government and most other large business users acquire telecommunications services through competitive procurement procedures whenever possible. However, competitive procurement procedures depend upon the existence of alternative providers that offer a variety of telecommunications services.

CMRS interconnection will provide a broader spectrum of telecommunications services because it will give both end users and other carriers much greater flexibility in synthesizing new services. If the same interconnection rules apply for CMRS as for wireline services, resellers and end users will be able select from among radio and wireline alternatives without bias introduced by different regulatory standards. By using the same interconnection rules for both radio and wireline services, the Commission will enable users to select from the best features that each technology has to offer.

At present, there is statutory authority for requiring the same interconnection rules for CMRS as for wireline services, as explained by the National Cellular Resellers Association.¹¹ Section 332(c)(1)(B) of the *Communications Act*, as amended, requires all common carriers to interconnect with CMRS providers. Since CMRS providers are classified as common carriers by statute, presently effective legislation obligates CMRS-to-CMRS interconnections. GSA urges the Commission

¹¹ *Id.*, pages 40–41.

to consider this fact, along with the economic advantages of interconnection described above, in deciding to establish the same interconnection requirements for mobile radio as for wireline services.

III. THE COMMISSION SHOULD REQUIRE RESALE OF CMRS.

The Commission has tentatively concluded that resale of CMRS will serve the public interest.¹² GSA concurs with the Commission's conclusion and urges the Commission to require CMRS resale whenever feasible.

The Commission acknowledges that other parties previously submitting comments in this proceeding, in addition to GSA, agree that the Commission should impose an obligation on CMRS carriers to permit unrestricted and nondiscriminatory resale.¹³ The consensus of the views of these parties is that regulations requiring CMRS licensees to provide resale capacity will promote more competition among all telecommunications firms and will contribute to the overall strength of the market. Also, resellers often add value to telecommunications services.

A reseller, for example, may provide a customized billing service, or bundle mobile radio service with other services provided by wireline carriers. Resale should increase the overall demand for CMRS and increase overall traffic on telecommunications networks, permitting greater economies of scope and scale which ultimately benefit users and providers alike.

The Commission correctly concludes that resale would involve minimal expense and no foreseeable technical problems for most CMRS licensees.¹⁴ But, in

¹² *Id.*, page 49.

¹³ *Id.*, page 33.

¹⁴ *Id.*, page 43.

some cases, regulations are required to ensure that firms providing resale capacity to resellers do not unfairly constrict their activities.

Charges by CMRS providers should reflect the reasonable costs of resale capacity. CMRS providers should be required to make air time available to resellers and to refrain avoid discriminatory rate structures. Any volume discounts available to a CMRS carrier's large "retail" customers must also be available to resellers on the same terms and conditions as offered to retail customers. Regulations of this type will provide resellers with the opportunity to compete fairly with facilities-based carriers.

The NPRM illustrates the importance of both interconnection and resale for the development of competition among mobile radio carriers in describing a proposal by cellular resellers.¹⁵ A number of parties, including the NCRA and the California Public Utilities Commission, have urged the Commission to require facilities-based cellular providers to permit resellers to install their own switching equipment between the cellular network's mobile telephone switching office and the facilities of the local exchange carrier or the interexchange carrier. This interconnected switch would provide resellers with more flexibility in structuring their own mobile radio services. End users will benefit if the facilities-based carriers make air time and other services available to the resellers at cost-based rates that reflect the economies of providing bulk service.

The reseller switch proposal illustrates the importance of both interconnection and unrestricted resale of CMRS services. GSA urges the Commission to adopt both policies to provide consumers with more service options and lower rates.

¹⁵ *Id.*, pages 40–41.

IV. REGULATIONS REQUIRING PROVISION OF RESALE CAPACITY TO FACILITIES-BASED CARRIERS SHOULD NOT SUNSET.

The Commission has tentatively concluded that the requirement for CMRS firms to provide resale capacity to facilities-based competitors should not continue indefinitely after a firm has become established in the market. The Commission seeks comments on when the obligation should terminate.¹⁶

The Commission states its conclusion is intended to “strike a balance” between interests of CMRS providers and the interests of the public.¹⁷ The Commission observes that once a newer facilities-based entrant is fully operational, it is no longer necessary to offset the “headstart” of other firms providing the same or similar services.¹⁸

GSA agrees with the Commission that at some point in time it is no longer necessary to compensate for the headstart that other firms may have in providing services. However, GSA does not believe that the requirements to provide resale capacity to facilities-based carriers should terminate when these firms attain a larger share of the market.

Resale capacity can be employed to structure new services and provide additional competitive options by all firms regardless of the length of time they have operated in the market. Any requirements to provide resale capacity should be symmetrical, and apply to all firms, regardless of size or the length of the time they have been providing services. The requirements should not sunset with any predetermined schedule.

¹⁶ *Id.*, page 49.

¹⁷ *Id.*, page 45.

¹⁸ *Id.*

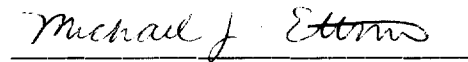
V. CONCLUSION

As the agency vested with the responsibility for acquiring telecommunications services on a competitive basis for use of the Federal Executive Agencies, GSA urges the Commission to establish the interconnection requirements for CMRS that mirror those existing for wireline services, to require resale of all CMRS, and to continue obligations for resale to facilities-based carriers even after they are established in the market.

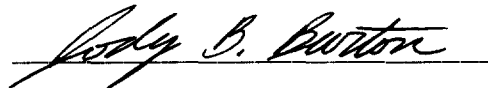
Respectfully submitted,

EMILY C. HEWITT
General Counsel

VINCENT L. CRIVELLA
Associate General Counsel
Personal Property Division



MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division



JODY B. BURTON
Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
18th & F Streets, N.W., Room 4002
Washington, D.C. 20405
(202)501-1156

June 14, 1995

CERTIFICATE OF SERVICE

I, Jody B. Burton, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 14th day of June, 1995, by hand delivery or postage paid to the following parties:

Regina M. Keeney
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

Judy Argentieri
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

Barbara Esbin
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

International Transcription
Service, Inc.
Suite 140
2100 M Street, N.W.
Washington, D.C. 20037

Paul Schwedler, Esquire
Asst. Regulatory Counsel,
Telecommunications
Defense Info. Agency, Code AR
701 South Courthouse Road
Arlington, VA 22204-2199

Edith Herman
Senior Editor
Communications Daily
2115 Ward Court, N.W.
Washington, D.C. 20037

Service List, Cont.

Telecommunications Reports
11th Floor, West Tower
1333 H Street, N.W.
Washington, D.C. 20005

Richard B. Lee
Senior Consultant
Snively, King & Assoc., Inc.
1220 L Street, N.W., Suite 410
Washington, D.C. 20005

A handwritten signature in cursive script, appearing to read "Richard B. Lee", is written over a horizontal line.